



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 6398-99

12 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 8 February 1977 at age 17. The record reflects that you received five nonjudicial punishments and were convicted by a summary court-martial. The offenses included possession of marijuana on three occasions, theft of government property, failure to obey a lawful order, two instances of violating a lawful general regulation, and unauthorized absences totalling at least two days.

On 30 August 1979 the commanding officer recommended that you be separated with an other than honorable discharge by reason of misconduct. When informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and you were discharged with an other than honorable discharge on 12 October 1979.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity

and the contention that you were told that the discharge would be upgraded after six months. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given your frequent involvement with military authorities. The Board especially noted the fact that you were the subject of six disciplinary actions within a period of less than three years. No law or military regulation provides for upgrading a discharge based solely on the passage of time. Therefore, the Board concluded that your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director